



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

SB1494

Introduced 2/18/2009, by Sen. David Koehler

#### SYNOPSIS AS INTRODUCED:

New Act

Creates the Local Farmers' Markets Act. Provides that operators of stands and concessions who wish to sell products other than fresh produce must contact the local health department to obtain information regarding necessary food permits or licenses. Sets forth provisions concerning transportation of food products, sanitary condition of premises, and food protection during storage, display, and sales. Provides that all pre-packaged foods must comply with the labeling requirements of the Act. Sets forth certain foods that are (1) allowed at farmers' markets and other outdoor food sales events with no restriction; (2) permitted with certain restrictions; and (3) prohibited for sale at farmers' markets and other outdoor food sales events. Makes other changes.

LRB096 10914 RPM 21163 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning public health.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the Local  
5 Farmers' Markets Act.

6 Section 5. Definitions. For the purposes of this Act:

7 "Department" means the Illinois Department of Public  
8 Health.

9 "Director" means the Director of the Illinois Department of  
10 Public Health.

11 "Commercial processing plant" means a location that is  
12 regulated by the Illinois Department of Public Health.

13 "Commercially raised mushrooms" means mushrooms that were  
14 cultivated in a commercial plant. Varieties may include the  
15 common button, portabella, shiitake, enoki, and bavarian  
16 mushrooms.

17 "Licensed dairy plant" means a dairy licensed under the  
18 provisions of the Grade A Pasteurized Milk and Milk Products  
19 Act.

20 "Non-commercial processing plant" means a location that is  
21 not regulated by the Illinois Department of Public Health.

22 "Non-potentially hazardous food products" include foods  
23 products that do not need to be refrigerated to ensure safety,

1 including, but not limited to: cookies, cakes, fruit pies.

2 "Potentially hazardous food products" include food  
3 products that must be refrigerated to ensure safety as  
4 determined by the Department, including, but not limited to:  
5 dairy products, eggs, cream or custard filled items, and  
6 egg-based or custard pies.

7 "Wild mushrooms" means mushrooms that are found and  
8 harvested in their natural habitat. Varieties may include morel  
9 and sponge mushrooms.

10 Section 10. Purpose. Farmers' markets provide not only a  
11 valuable marketplace for farmers to sell their products  
12 directly to consumers, but also a place for consumers to access  
13 fresh fruits, vegetables, and other agricultural products.  
14 Although these markets successfully operate across Illinois,  
15 there is a lack of comprehensive regulation from one county to  
16 the next, resulting in discrepancies between counties  
17 regarding the products that may be sold. Therefore, the purpose  
18 of this Act is to clearly define which products and practices  
19 are permitted, and which products and practices are not  
20 permitted at local farmers' markets and other outdoor food  
21 sales events.

22 Section 15. Permits; licenses. Operators of stands and  
23 concessions who wish to sell products other than fresh produce  
24 must contact the local health department to obtain information

1 regarding necessary food permits or licenses. Nothing in this  
2 Act shall be construed as allowing the sale of products or  
3 services without a permit or license as required by any of the  
4 following:

- 5 (1) Illinois Food, Drug, and Cosmetic Act;
- 6 (2) Sanitary Food Inspection Act;
- 7 (3) Grade A Pasteurized Milk and Milk Products Act;
- 8 (4) Farm Products Marketing Act; or
- 9 (5) Illinois Egg and Egg Products Act.

10 Section 20. Transportation of food products. During  
11 transportation and delivery of food products, foods must at all  
12 times be protected from insects, flies, dirt, handling,  
13 chemicals, and other contamination.

14 Section 25. Sanitary condition of premises required. The  
15 operator of each stand or sales area is responsible for  
16 maintaining it in a neat and clean sanitary condition, as  
17 determined by the Department of Public Health by rule. An  
18 adequate number of tightly covered waste containers must be  
19 provided for storage of garbage and refuse. These containers  
20 must be stored to eliminate potential for contamination of any  
21 food products. At the close of business, each stall holder  
22 shall clean the stall and surrounding area. No pets are allowed  
23 in the storage and display area.

1 Section 30. Food protection during storage, display, and  
2 sales.

3 (a) Food on display in farmers' markets and other outdoor  
4 food sales events must be adequately protected from incidental  
5 public handling, dirt, and other contamination. Foods must be  
6 stored off the ground and or floor. Any prepared, processed,  
7 baked, or cut food must be packaged or wrapped for protection.  
8 Any wrapping or container must be constructed of safe, new,  
9 food-grade materials.

10 (b) All utensils, display cases, counters, shelves,  
11 tables, and refrigeration equipment must be clean, sanitary,  
12 smooth, sealed, and constructed of approved materials to  
13 prevent contamination of any food products. Samples of food  
14 products may only be distributed by single service articles  
15 (such as plates, forks, toothpicks, etc.) and must be discarded  
16 immediately after use.

17 (c) Hand washing is required when produce or any food item  
18 is sliced, cut, or prepared on or off site. Therefore, if foods  
19 are to be handled, then hand washing facilities must be  
20 provided. Where water under pressure is not available, the  
21 minimum requirements for hand washing shall be a pan with warm  
22 water or a thermos with spigot and a catch pan, soap, and  
23 individual paper towels. All persons handling food products  
24 shall conform to proper hygienic practices and be free from  
25 disease conditions which may contaminate food.

26 (d) If ice is used to cool food products, beverages, or

1 beverage containers, it must be from an approved commercial  
2 source. All ice used for display must be properly drained. All  
3 potentially hazardous food, as defined in this Act, must be  
4 held at appropriate temperatures.

5 (e) Live poultry and pets may be sold only if they can be  
6 segregated from the general food sales area and there are no  
7 local ordinances that prohibit it.

8 Section 35. Labeling. All pre-packaged foods must comply  
9 with the labeling requirements of this Section. This  
10 information may be provided as a label on the package or  
11 container, or on a sign or placard clearly displayed near the  
12 food sold, or as a recipe given to the customer. Labels must  
13 include, at minimum, the following:

- 14 (1) common name of the product;
- 15 (2) name, address, and zip code of the packer,  
16 processor, or manufacturer;
- 17 (3) net contents;
- 18 (4) list of ingredients in descending order of  
19 predominance by weight; and
- 20 (5) a list of any artificial color, artificial flavor,  
21 or preservatives used.

22 Section 40. Foods permitted with no restriction. As  
23 provided by the Farm Products Marketing Act, the following  
24 products are allowed at farmers' markets and other outdoor food

1 sales events with no restriction:

2 (1) unprocessed fresh fruits;

3 (2) unprocessed vegetables;

4 (3) unprocessed nuts;

5 (4) unprocessed seeds;

6 (5) whole, uncut melons;

7 (6) popcorn (may not be sprouted or ground, etc.);

8 (7) organic foods; and

9 (8) fresh or dried herbs.

10 Section 45. Foods permitted with certain restrictions. The  
11 following foods are allowed at farmers' markets and other  
12 outdoor food sales events under the noted restrictions. The  
13 local county health department shall determine that the  
14 requirements have been met for sale.

15 (1) Apple cider. Apple cider, packaged or in a container,  
16 must be pasteurized or show a warning statement on the label.  
17 Unpackaged apple cider and other fresh juice produced on site  
18 are exempt from the warning statement.

19 (2) Baked goods. Non-potentially hazardous based may be  
20 prepared in both commercial and non-commercial kitchens and  
21 sold at farmers' markets and other outdoor food sales events.  
22 Potentially hazardous baked goods may be prepared in both  
23 commercial and non-commercial kitchens and sold at farmers'  
24 markets and other outdoor food sales events. They must be  
25 transported and held in a place or room where the temperature

1 does not exceed 41 degrees Fahrenheit. Any form of  
2 refrigeration is acceptable, so long as the temperature  
3 requirement is met.

4 (3) Cut Melons. All cut melons must be covered or wrapped  
5 and iced. Any leftovers must be discarded immediately after 4  
6 hours.

7 (4) Commercially produced products. Products produced in a  
8 commercial processing plant are allowed for sale at farmers'  
9 markets and other outdoor food sales events.

10 (5) Flavored oils. Only garlic-in-oil that has been  
11 produced at a commercial processing plant may be sold. Other  
12 flavored oils may be produced in non-commercial processing  
13 plants.

14 (6) Herb vinegars. Only herb vinegars which use commercial  
15 vinegar are permitted for sale.

16 (7) Home-canned products. Only home-canned jams, jellies,  
17 and honey may be sold at farmers' markets and other outdoor  
18 food sales events, if they meet the following requirements:

19 (A) Home-canned food products must be labeled with the  
20 following information in legible English:

21 (i) the name and address of the persons preparing  
22 the food;

23 (ii) common name of the food;

24 (iii) the name and ingredients in the food; and

25 (iv) statement that the home-canned food products  
26 have not been inspected by the Illinois Department of

1 Public Health.

2 (B) During the sale of such home-canned food products,  
3 a placard shall be displayed in a prominent location  
4 stating the following: "This product has not been inspected  
5 by the Illinois Department of Public Health."

6 (C) Sellers of home-canned food products who violate  
7 the provisions of this section may be enjoined from selling  
8 home-canned food products by the Department of Public  
9 Health.

10 (8) Honey. Honey must originate from an inspected source.

11 (9) Ice cream. Ice cream may be sold if it is manufactured  
12 in a licensed dairy plant or in a retail food establishment  
13 from commercially pasteurized ice cream mix or from pasteurized  
14 milk and pasteurized eggs.

15 (10) Mushrooms. Commercially raised mushrooms must have  
16 documentation detailing their source. Wild mushrooms may only  
17 be sold after examination by an acknowledged mushroom expert,  
18 approved by the local health department or the Illinois  
19 Department of Public Health. Packaging for the common button  
20 and enoki mushrooms must have at least one or 2 quarter-inch  
21 holes to allow for the entry of oxygen, unless the mushrooms  
22 have been grown on sterile media.

23 (11) Pickles, relishes, and salsas. Only pickles,  
24 relishes, and salsas produced in a commercial processing plant  
25 may be sold at farmers' markets and other outdoor food sales  
26 events.

1           (12) Dairy products. Only dairy products produced in a  
2 licensed dairy plant may be sold at farmers' markets and other  
3 outdoor food sales events.

4           (13) Shell eggs. All eggs sold at farmers' markets and  
5 other outdoor food sales events must be candled and graded and  
6 held in a place or room in which the temperature may not exceed  
7 45 degrees Fahrenheit after processing, in accordance with the  
8 Egg and Egg Products Act. Nest run eggs shall be held at 60  
9 degrees Fahrenheit or less at all times. They must be  
10 transported and held in a place or room where the temperature  
11 does not exceed 41 degrees Fahrenheit. Any form of  
12 refrigeration is acceptable, so long as the temperature  
13 requirement is met.

14           (14) Other food products. Other food products may be  
15 assessed on an individual basis by the local county health  
16 department or the Illinois Department of Public Health.

17           Section 50. Food prohibited for sale. The following foods  
18 are prohibited for sale at farmers' markets and other outdoor  
19 food sales events:

20           (1) home-butchered meat, poultry, or wild game  
21 animals;

22           (2) home-vacuumed products; and

23           (3) home-prepared sandwiches.

24           Section 55. Rulemaking authority. The Department of Public

1 Health may adopt rules for the implementation of this Act.